REMARKS

The Interview granted by the Examiner with the undersigned attorney on March 15, 2005, is acknowledged with appreciation. This amendment is presented to move the prosecution forward in an effort to present claims that are allowable over the prior art.

Seven claims, 1 and 3-8, are presented including one independent claim. No additional claim fee is required. The substance of Claim 2 has been incorporated into Claim 1. Presence of about 0.5% by weight of the carnosine additive is disclosed at page 4, line 8. The adjusted pH value of about 8.0 is disclosed at page 5, line 6. The carnosine variants set forth in the claims are disclosed at page 3, line 23 et seq.

The presently claimed invention relates to an alkaline cosmetic composition, having a pH of about 8.0 to about 9.5, which is effective against skin wrinkling. The composition is dispensed in an alkaline cosmetically acceptable vehicle and contains carnosine, complex or indicated derivative of carnosine or mixture of carnosine or carnosine complex with indicated derivatives in an effective antiwrinkle amount of about 0.5% to about 50% by weight, as amended herein.

Claims 1, 2, 5, 7 and 8 were rejected under 35 U.S.C. 102(a or e) as anticipated by or in the alternative, under 35 U.S.C. 103(a) as obvious over US Pat. 6,358,514 to Boussouira et al.

It is respectfully submitted that Claims 1, 5, 7 and 8, as amended are not anticipated by the Boussouira et al patent and are not obvious from it. Boussouira et al disclose the presence of carnosine as a test compound only in amount of 0.1% (col. 10, lines 35-36) and that tests with it and retinoid, which is proposed in the patent as an additive for treatment of skin and/or hair, were unsuccessful at pH 8.2 (formulation C, col. 10, lines 51-52 and col. 11, lines 1-18). As amended, the claims reflect carnosine in its preferred range with the minimum of about 0.5% being well above the

0.1% amount used unsuccessfully by Boussouira et al. Moreover, since test formulation C was unsuccessful it would not be obvious to the artisan to use higher amounts and expect success. This unobvious ness is emphasized in the Declaration attached hereto of Chipyrrama Potini, Vice President of Research and Development of HNC Products, Inc., of Clinton, IL, attached hereto, wherein it is demonstrated that at alkaline pH carnosine in amounts well above 0.1% is effectively retained even in the presence of retinol. Further, where Boussouira discloses a carnosine derivative (col. 4, line 12) it is with a histidine structure as required by patentee's disclosure. The variants of carnosine of the present claims are not disclosed and are not obvious from the Boussouira patent.

Claims 1-3, 5, 7 and 8 were rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US Pat. 6,629,970 to Bagrov et al. It is respectfully submitted that the Claims 1, 3, 5, 7 and 8, as amended are neither anticipated by nor obvious from the patent to Bagrov et al. Bagrov et al discloses an ophthalmologic composition containing carnosine and a glycosaminogylcine (GAG) complex to reduce endothelium loss after eye surgery. The pH of the composition is 7.2 to 7.6 (col. 2, lines 10-12) and equality to the pH of the eye tissue liquid is necessary (col. 2, lines 57-63). As amended, the presented claims set forth the preferred minimum alkaline pH of about 8.0, which is substantially in excess of the close to neutral pH range that is required for the ophthalmologic composition of Bagrov et al. Accordingly, the claims are not anticipated by this patent and, further they are not obvious therefrom since the artisan would not exceed the pH of 7.6 for the ophthalmologic composition.

Claims 1-5, 7 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over the patent to Boussouira et al. Although the Examiner asserts that carnosine derivative is disclosed in amounts ranging from 0.01 to 18%, it would actually be a histidine derivative of carnosine that is used in such amounts with a retinoid. The histidine derivative of carnosine is not among the additives claimed

herein. The failure of carnosine at 0.1%, discussed above, would be dissuasive to one skilled in the art to use greater amounts of carnosine.

Claims 1-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. Pub. 2003/0118525 to Grigg in view of the patent to Boussouira. The Grigg publication discloses treating or preventing skin damage and/or UV-induced immunosuppressant with the administration of carnosine, acycarnosine or related compounds. The publication gives no guidance for pH to be employed and certainly not an alkaline pH. Indeed, some optional components disclosed are acidic in nature (e.g. amphoterics) but not alkaline. The failure of carnosine at pH 8.2 in the Boussouira patent, discussed above, is dissuasive to the artisan to prepare a composition in accordance with the Grigg publication at alkaline pH.

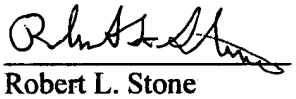
Furthermore, as stated in paragraph **[0004]** of the present specification, in US Patent 5,091,171 to Yu et al (cited by Applicant) dipeptides including carnosine and complexes thereof are described in skin care compositions containing an alpha-hydroxyacid or alpha-ketoacid and various amphoteric materials. The hydroxyacids or ketoacids generally indicate an acidic pH and alkaline pH is not disclosed for antiwrinkling effect. Indeed, it is specifically disclosed that although introducing a base such as ammonium hydroxide does permit the composition to show some therapeutic effect for certain cosmetic conditions such as dry skin it loses much of its potency for dermatologic disorders including wrinkles (col. 2,lie 59-col. 3, line 2). This disclosure too emphasizes that one familiar with the Grigg publication would not be led provide an alkaline pH for its compositions.

The Yu et al patent includes Example 6 with carnosine and a hydroxyacid at pH 4.5 for cosmetic and dermatologic conditions. Substantial undesirable side effects can be noted when skin is subjected to such acidic conditions. There is no guidance in the prior are to lead the artisan to an alkaline pH with the carnosine materials of the present claims.

In order to evidence the availability of carnosine at alkaline pH while recognizing that a small amount (0.1%) is detrimental to retinoid at pH 8.2 in the Boussouira patent, there is submitted herewith a Declaration under 37 C.F.R 1.132 of Chimpyrrama Potini evidencing that higher amounts of carnosine than was unsuccessfully tried by Boussouira reveal substantial retention of carnosine.

It is respectfully requested that this application be reconsidered and Claims 1 and 3-8 allowed. Should the Examiner have any comments or suggestions to resolve outstanding issues he is invited to telephone the undersigned attorney in an effort to resolve such issues.

Respectfully submitted,



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Att. Declaration under 37 C.F.R. 1.132